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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,951	03/21/2000	Craig Douglas Voisin	57921/105	7500
7590	02/04/2004		EXAMINER	
GLENN PATENT GROUP 3475 EDISON WAY, SUITE-L MENLO PARK, CA 94025			DURAN, ARTHUR D	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/531,951	VOISIN ET AL.	
	Examiner	Art Unit	
	Arthur Duran	3622	MW

-- The MAILING DATE of this communication appars on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-51 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-51 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

1. Claims 1-51 have been examined.

Response to Amendment

2. The Amendment filed on 1/27/04 is insufficient to overcome the Gerace, Lumelsky, and Lowe reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace (5,848,396) in view of Lumelsky (6,246,672) and in further view of Lowe (6,298,218).

Claims 1, 16, 22: Gerace discloses maintaining an Internet-related communication session between a user and a portal (col 4, lines 1-5) and during the communication session periodically selecting and playing advertisements automatically based on any one of user constraints and sales criteria (col 2, lines 35-42; col 5, lines 8-25).

Gerace discloses tracking all aspects of user navigation of a portal (col 2, lines 15-42). Gerace discloses the use of sound (col 1, lines 30-35), audio forecasts (col 8, lines 63-65; col 25, lines 15-18), and other sound and audio applications as referenced above. Gerace further

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discloses tracking the audio capabilities of a user's system (col 6, lines 17-21). Gerace further discloses the use of a variety of input means (col 4, lines 6-11), and that the method can be operated anywhere the Internet accessible (col 3, lines 54-58). Gerace further discloses the utilization and providing of television and radio broadcasts (col 36, lines 50-54; col 16, lines 55-60).

Gerace does not explicitly disclose the utilization of voice navigation.

However, Lumelsky discloses a wireless system that provides voice or audio broadcasts of all types, that is voice activated, voice controlled, voice navigated, features hands free operation, hands free user voice recording, and user voice message delivering to other users, and voice navigation access to Internet files from Web sites (col 5, line 50-col 6, line 5; Abstract).

Lumelsky further disclose creating a user profile and updating that profile with topics of user interest (col 20, lines 6-24; col 8, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice navigation to Gerace's targeted content over the Internet. One would have been motivated to do this because hands free voice input and navigation allows Gerace's method to reach a wider spectrum of possible uses.

Gerace further discloses selectively playing advertisements (col 2, lines 24-30) and playing advertisements depending upon the user's system (col 5, lines 19-25; col 6, lines 13-21) and playing the advertisement deemed of highest interest to the user (col 15, lines 25-45) and the advertiser paying for advertisements in different scales depending upon the receptions or actions taken upon an advertisement (col 12, lines 17-21).

Gerace does not explicitly disclose selectively disabling a user's ability to stop or interrupt an advertisement from being played depending upon the advertisement being played.

Lowe discloses selectively disabling a user's ability to stop or interrupt an advertisement from being played (col 3, lines 40-60; col 12, lines 25-61; col 7, lines 41-50) depending upon a variety of controllable input or advertising related information or information related to the advertisement being played (col 12, lines 55-59; col 12, lines 25-29; Fig. 1, item 111). Lowe further discloses recording which advertisements the user has seen (col 3, lines 47-50) and targeting the user for content including advertising and that a captive audience can be provided (col 2, lines 34-45; col 6, lines 15-23). Lowe further discloses targeted advertisements and targeted content depending upon the reference information about a user (col 4, lines 15-24) and different types of advertisements (col 5, lines 50-60). Lowe discloses the utilization of voice data for controlling an information system and the receiving of information including audio or video and advertisements particular to a user (col 9, lines 5-20).

Therefore, because Lowe discloses a lock out unit that can receive a variety of input and Lowe discloses targeting the users with a variety of advertising and Lowe discloses that the lock out unit can be activated or deactivated based on a variety of input and advertising related information, it would have been obvious to Lowe that the lock out unit can be activated based upon the advertising being played. Lowe would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lowe's selectively disabling a user's ability to stop an advertisement to Gerace's selectively playing advertisements and playing the advertisements

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deemed of highest interest to the user. One would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Additionally, Gerace discloses a context ratio (col 4, lines 40-47; col 11, lines 45-56; col 12, lines 22-35; col 14, line 65-col 15, line 10) and sales ratio determination (col 15, lines 10-25; col 12, lines 22-67) related to advertisements.

Claims 2, 23: Gerace, Lumelsky, and Lowe disclose a method as in claims 1, 22, and Gerace further discloses playing an audio message identifying a product or service to be advertised, including a query as to whether the user would like to hear more information regarding the product or service, identifying a response of the user (col 2, lines 35-42; col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17), selectively playing an audio advertisement for the product or service, if the response was affirmative (col 2, lines 40-42).

Claims 3 and 24: Gerace, Lumelsky, and Lowe disclose a method and means as in claim 2 and 23, and Gerace further discloses that the step of playing an audio message is in response to a previous user selection (col 2, lines 35-42).

Claims 4 and 25: Gerace, Lumelsky, and Lowe disclose a method and means as in claims 2 and 23, and Gerace further discloses the step of playing an audio message comprises identifying a preference of the user and selecting an advertisement for a product of service which corresponds to the preference of the user (col 5, lines 15-25).

Claims 5, 18, and 26: Gerace, Lumelsky, and Lowe disclose a method and means as in claims 4, 16, and 24, and Gerace further discloses identifying the user and retrieving preference information corresponding to the user, the preference information being stored in a database, and the advertisements played (col 5, lines 15-25).

Claims 6 and 27: Gerace, Lumelsky, and Lowe disclose a method as in claims 2 and 23.

Gerace further discloses a wide variety of input means (col 38, lines 25-27). Gerace further discloses the user of audio and radio broadcasts (col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17). Gerace further discloses making the use of the invention more appealing to the user (col 2, lines 47-54).

Gerace does not explicitly disclose the step of identifying a response of the user comprising applying voice recognition techniques. However, Lumelsky discloses step of identifying a response of the user comprising applying voice recognition techniques (col 12, lines 10-13).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice recognition to Gerace's targeted advertising. One would have been motivated to do this because voice recognition is a standard method of user input and allows Gerace's user's further convenience.

Claims 7, 9, 20, 44: Gerace, Lumelsky, and Lowe disclose a method as in claims 2, 8, 16, 42, and Gerace further discloses the step of selectively playing an audio advertisement which comprises defining a set of advertisements, assigning weights to each member of the set of advertisements, and selecting a member of the set of advertisements based on the assigned weight (col 14, line 65-col 15, line 12).

Claims 8, 21, 28: Gerace, Lumelsky, and Lowe disclose a method as in claims 7, 16, and 23, and Gerace further discloses that wherein the step of assigning weights to each member of the set of advertisements comprises prioritizing each member of the set of advertisements (col 14, line 65-col 15, line 12).

Claim 13: Gerace, Lumelsky, and Lowe disclose a method as in claim 1 above, and further discloses that the step of maintaining a communication session between a user and portal comprises establishing a connection between a web device and the portal (col 3, lines 54-57).

Claim 15: Gerace, Lumelsky, and Lowe disclose a method as in claim 1 above, and Gerace further discloses that the step of maintaining a communication session between a user and portal comprises communicating with a personal computer interface (col 2, lines 1-15; col 4, lines 1-10).

Claim 29, 32-36, 40, 41, 42, 43, 46, 47, 48: Gerace discloses maintaining an Internet-related communication session between a user and a portal (col 4, lines 1-5) and during the communication session periodically selecting and playing advertisements automatically based on any one of user constraints and sales criteria (col 2, lines 35-42; col 5, lines 8-25).

Gerace discloses tracking all aspects of user navigation of a portal (col 2, lines 15-42). Gerace discloses the use of sound (col 1, lines 30-35), audio forecasts (col 8, lines 63-65), and other sound and audio applications as referenced above. Gerace further discloses tracking the audio capabilities of a user's system (col 6, lines 17-21). Gerace further discloses the use of a variety of input means (col 4, lines 6-11), and that the method can be operated anywhere the is Internet accessible (col 3, lines 54-58).

Gerace does not explicitly disclose the utilization of voice navigation.

However, Lumelsky discloses a wireless system that provides voice or audio broadcasts of all types, that is voice activated, voice controlled, voice navigated, features hands free operation, hands free user voice recording, and user voice message delivering to other users, and voice navigation access to Internet files from Web sites (col 5, line 50-col 6, line 5; Abstract).

Lumelsky further disclose creating a user profile and updating that profile with topics of user interest (col 20, lines 6-24; col 8, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice navigation to Gerace's targeted content over the Internet. One would have been motivated to do this because hands free voice input and navigation allows Gerace's method to reach a wider spectrum of possible uses.

Gerace further discloses playing an audio message identifying a product or service to be advertised, including a query as to whether the user would like to hear more information regarding the product or service, identifying a response of the user (col 2, lines 35-42; col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17), selectively playing an audio advertisement for the product or service, if the response was affirmative (col 2, lines 40-42).

Gerace further discloses the step of selectively playing an audio advertisement which comprises defining a set of advertisements, assigning weights to each member of the set of advertisements, and selecting a member of the set of advertisements based on the assigned weight (col 14, line 65-col 15, line 12).

Gerace further discloses selectively playing advertisements (col 2, lines 24-30) and playing advertisements depending upon the user's system (col 5, lines 19-25; col 6, lines 13-21) and playing the advertisement deemed of highest interest to the user (col 15, lines 25-45) and the advertiser paying for advertisements in different scales depending upon the receptions or actions taken upon an advertisement (col 12, lines 17-21).

Gerace does not explicitly disclose selectively disabling a user's ability to stop or interrupt an advertisement from being played depending upon the advertisement being played.

Lowe discloses selectively disabling a user's ability to stop or interrupt an advertisement from being played (col 3, lines 40-60; col 12, lines 25-61; col 7, lines 41-50) depending upon a variety of controllable input or advertising related information or information related to the advertisement being played (col 12, lines 55-59; col 12, lines 25-29; Fig. 1, item 111). Lowe further discloses recording which advertisements the user has seen (col 3, lines 47-50) and targeting the user for content including advertising and that a captive audience can be provided (col 2, lines 34-45; col 6, lines 15-23). Lowe further discloses targeted advertisements and targeted content depending upon the reference information about a user (col 4, lines 15-24) and different types of advertisements (col 5, lines 50-60). Lowe discloses the utilization of voice data for controlling an information system and the receiving of information including audio or video and advertisements particular to a user (col 9, lines 5-20).

Therefore, because Lowe discloses a lock out unit that can receive a variety of input and Lowe discloses targeting the users with a variety of advertising and Lowe discloses that the lock out unit can be activated or deactivated based on a variety of input and advertising related information, it would have been obvious to Lowe that the lock out unit can be activated based upon the advertising being played. Lowe would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lowe's selectively disabling a user's ability to stop an advertisement to Gerace's selectively playing advertisements and playing the advertisements deemed of highest interest to the user. One would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Additionally, Gerace discloses a context ratio (col 4, lines 40-47; col 11, lines 45-56; col 12, lines 22-35; col 14, line 65-col 15, line 10) and sales ratio determination (col 15, lines 10-25; col 12, lines 22-67) related to advertisements.

Claims 10, 30, 37 and 45: Gerace, Lumelsky, and Lowe disclose a system as in claims 7, 32, and 42, and Gerace further discloses providing billing information on advertisements used based on a per use rate of charge (col 12, line 56-col 13, line 10).

Claims 11, 14, 17, 19, 31, and 49: Gerace, Lumelsky, and Lowe disclose a method as in claims 2, 1, 16, 23, and 46. Gerace further discloses the user making selections and purchases (col 2, lines 35-42). Gerace further discloses the user of audio and radio broadcasts (col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17). Gerace further discloses making the use of the invention more appealing to the user (col 2, lines 47-54). Gerace further discloses warning and notice messages (col 33, lines 32-35).

Gerace does not explicitly disclose identifying a response comprises playing a confirmation audio message to confirm the response.

Gerace does not explicitly that the communication session comprises a voice interface. However, Lumelsky discloses identifying a response comprises playing a confirmation audio message to confirm the response (col 7, lines 15-18).

Lumelsky further discloses that the step of maintaining a communication session between a user and portal comprises communicating with a voice interface (col 8, line 66-col 9, line 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice recognition to Gerace's targeted content. One

would have been motivated to do this because voice recognition is a standard method of user input and allows Gerace's user's further convenience.

Claims 12, 38, 39, 50: Gerace, Lumelsky, and Lowe disclose a method as in claims 1, 32, 46. Gerace further discloses that the communication session between a user and portal can be over an Internet capable medium (col 3, lines 54-57).

Gerace does not explicitly disclose the step of maintaining a communication session between a user and portal comprises establishing a connection between a wireless application protocol device and the portal.

However, Lumelsky discloses maintaining a communication session between a user and portal comprises establishing a connection between a wireless application protocol device and the portal (col 1, lines 6-9 and col 6, lines 57-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's wireless device to Gerace's targeted content over the Internet. One would have been motivated to do this because wireless devices interacting with the Internet is an industry standard and allows Gerace's method to reach a wider spectrum of user devices.

Claim 51: Gerace, Lumelsky, and Lowe disclose a program code as in claim 46 above. Gerace discloses that the program code operates audio content (col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17). Gerace further discloses collecting and maintaining user telephone information and general telephone related information (col 1, lines 10-14; col 6, lines 1-5; col 9, lines 30-33).

Gerace does not explicitly disclose that the computer readable program code for transforming Internet-based information into speech or vocal transmission utilizes the telephone.

However, Lumelsky discloses a system with program code for an interactive radio system that utilizes the telephone (col 21, lines 53-62 and col 23, line 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice recognition with telephone utilization to Gerace's targeted information.

One would have been motivated to do this because so that Gerace can better utilize the telephone information that he has already collected.

Response to Arguments

4. Applicant's arguments with respect to claim 1-51 have been considered but are not found persuasive. Particularly note the rejection of the Independent claims above and the Response to Arguments below.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety that is being referred to.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art.

Applicant has added the features of 'context ratio and sales ratio determination' to the Independent claims. Applicant has not added further claim language to the claims to disclose what the Applicant means by 'context ratio and sales ratio'. Hence, context ratio and sales ratio as disclosed in the claims are open to a broad interpretation.

The phrases ‘context ratio’ or ‘sales ratio’ appear minimally in the Applicant’s Specification. On page 63, line 5 of the Applicant’s Specification, ‘context ratio’ appears. On page 62, line 15 and page 63, line 5 ‘sales ratio’ appears.

Additionally, Gerace discloses the cited features.

Gerace discloses a context ratio determination for advertisements (col 4, lines 40-47; col 11, lines 45-56; col 12, lines 22-35; col 14, line 65-col 15, line 10).

Gerace discloses a sales ratio determination for advertisements (col 15, lines 10-25; col 12, lines 22-67).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

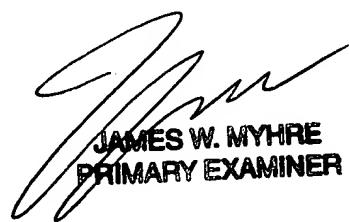
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on Mon- Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AO

2/2/04



JAMES W. MYHRE
PRIMARY EXAMINER